

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.1415 of 2014

O R D E R:

Petitioner has filed this Writ Petition assailing the order dt.15.07.2013 in Rc.No.B/528/2013 of the 4th respondent, served on the petitioner on 07.01.2014.

2. Petitioner's father had purchased an extent of Ac.0.30 guntas in survey No.183/G, Ac.0.15 guntas in survey No.183/H totally Ac.1.05 guntas in Muripirala village, Raiparthy Mandal, Warangal District through a sada Sale Deed executed by one Angothi Manyya. The said Angothi Manyya had been assigned the said land, which was ceiling surplus land, by the respondents.

3. On a report submitted by the Mandal Revenue Inspector and Surveyor that the original assignee was not in possession and that he had sold it to the petitioner, notice in Form II dt.27.05.2013 under A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for brevity 'the Act') was issued by the 4th respondent to the petitioner to show cause within 15 days, why he should not be summarily evicted from the subject land.

4. Petitioner gave explanation on 17.06.2013 which was acknowledged by the 4th respondent. In the said explanation, petitioner stated that his father had purchased the subject land

in 1980 and he had died five years back, that he had invested about Rs.One lakh for digging a bore well in the subject land, that he is totally dependent on the said land as he has no other movable or immovable properties, and sought for dropping of the proceedings initiated under the Act.

5. On the ground that the petitioner did not submit his explanation within the time specified in the notice, though the 4th respondent received the explanation of the petitioner dt.17.06.2013, vide Rc.No.B/528/2012 dt.15.07.2013 the 4th respondent directed the Mandal Revenue Inspector to dispossess the petitioner, since the assignee had violated the provisions of Section 3(i) of the Act.

6. In fact according to the petitioner, copy of the impugned order dt.15.07.2013 was furnished to him by respondents during the hearing of W.P.No.37590 of 2013 filed by him alleging that the 4th respondent, without passing any orders under the Act pursuant to notice 27.05.2013, was attempting to dispossess him.

7. Admittedly, petitioner was given liberty to question the said order dt.15.07.2013 of this Court in its order dt.23.12.2013 in W.P.No.37590 of 2013 and copy of the impugned order was furnished pursuant to the direction dt.23.12.2013 in the said writ petition. Thereafter, petitioner filed the present Writ Petition.

8. Principal contention of the counsel for petitioner is that though the 4th respondent received the response dt.17.06.2013 of the petitioner to Form-II notice dt.27.05.2013 issued by the 4th respondent, much before he passed the order dt.15.07.2013, the 4th respondent did not consider the petitioner's explanation, merely on the ground that it was received after the 15 day period mentioned in the show cause notice and that this action of the 4th respondent is arbitrary. He further contended that assuming that the petitioner was purchaser of assigned land, in view of the explanation submitted by the petitioner that he had no other land and his father had purchased the same in good faith, petitioner is entitled to the benefit of Sub-Section (5) of Section 3 of the Act which protects landless poor persons, who had purchased the assigned land in good faith and for valuable consideration even from an assignee.

9. On 23.01.2014, this Court passed the following interim order:

“ Ordinarily, this Court would have relegated the petitioner to the remedy of appeal. However, a perusal of the record *prima facie* shows that the petitioner submitted his explanation on 17.06.2013 in response to Form-II notice dated 27.05.2013, but respondent NO.4, who has passed the impugned order much after the petitioner submitted his explanation, did not consider the same. This Court, therefore, opines that the impugned order passed by respondent No.4 is in flagrant violation of principles of natural

justice. Hence, this Court is inclined to entertain this writ petition.

Learned Assistant Government Pleader for Revenue (Assignment) takes notice for the respondents and seeks time for filing counter-affidavit.

Post on 24.02.2014.

Pending further orders, *status quo* as on today shall be maintained with respect to the physical possession of the land admeasuring Ac.1.05 gts. in Sy.Nos.183/G & H of Muripirala Village, Raiparthy Mandal, Warangal District.”

10. Though the Government Pleader sought to contend that the order passed by the 4th respondent is valid and the explanation of the petitioner to the show cause notice was rightly not considered, I am unable to agree with the said submission.

11. It is not as if the explanation submitted by the petitioner on 17.06.2013 reached 4th respondent after he passed the impugned order. In fact, it reached him at least four weeks before the 4th respondent passed the order.

12. Therefore, notwithstanding the delay on the part of the petitioner in giving the explanation to the show cause notice, the 4th respondent was bound to consider the same. Therefore, there is clear violation of principles of natural justice.

13. Therefore, this Writ Petition is allowed, the order dt.15.07.2013 in Rc.No.B/528/2013 is set aside; and the

matter is remitted back to the 4th respondent to consider afresh the explanation of the petitioner dt.17.06.2013 keeping in mind Sub-Section (5) of Section (3) of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. This exercise shall be completed within a period of eight (08) weeks from the date of receipt of a copy of this order; pending such enquiry, *status quo* prevailing as on date shall be maintained in all respects. The 4th respondent shall also pay costs of Rs.2,000/- to the petitioner.

14. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

21st April, 2017.
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